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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,177	12/03/2003	Mary C. Tannenbaum	005708/P010US/08008819	5985

29053 7590 06/23/2006

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
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EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,177

Applicant(s)

TANNENBAUM, MARY C.

Examiner

Gerald Gauthier

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36,44 and 48-51 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-36,44 and 48-51 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. **Claim(s) 1-36, 44 and 48-51** are rejected under 35 U.S.C. 102(a) as being anticipated by Bellomo et al. (US 6,504,908 B1).

Regarding **claim(s) 1**, Bellomo discloses a system for recording messages (FIG. 1A and column 1, lines 43-48), said system comprising:

a memory (Storage 13 on FIG. 1B) for storing at the recipient's location a time to play a particular message at said system, said play time being later than the time said communication is received at said system (column 3, lines 55-65); and

a device (50 on FIG. 1A) for playing said particular message at the previously stored playtime associated with said particular message (column 5, lines 53-67).

Regarding **claim(s) 2 and 34**, Bellomo discloses a system, wherein said messages are played at said play time without regard to any action taken by said message recipient (column 5, lines 53-65).

Regarding **claim(s) 3**, Bellomo discloses a system, wherein said messages are audio messages played by a speaker (column 5, lines 53-65).

Regarding **claim(s) 4**, Bellomo discloses a system, wherein said messages are video messages displayed on a display (column 3, lines 55-65).

Regarding **claim(s) 5**, Bellomo discloses a system, wherein at least a portion of said particular message is received concurrently with said play time for storage in said memory over a communication path extending from a location remote from said recipient's location (column 3, lines 16-26).

Regarding **claim(s) 6 and 35**, Bellomo discloses a system, wherein at least one of said stored play times has a call-back number associated therewith, said system further comprising: means for receiving from said message recipient a response to a played message, said receiving means enabled at said play time (column 3, lines 31-41); and

means for enabling said response to be communicated to said call-back number (column 3, lines 31-41).

Regarding **claim(s) 7 and 20**, Bellomo discloses a system, wherein said play time is a plurality of different times (step 221 on FIG. 2C).

Regarding **claim(s) 8, 21, 33 and 48**, Bellomo discloses a system, wherein said memory is further operable for receiving messages that do not have controlled play times associated therewith and wherein said system further comprises: a processor operable in response to instructions received with a message play time for controlling the play of at least one of said messages not having controlled play times associated therewith (column 3, lines 55-65).

Regarding **claim(s) 9, 24, 49 and 50**, Bellomo discloses a system, wherein said last-mentioned message is selected based on information available external to said last-mentioned message at the time a received message is played (column 4, lines 13-36).

Regarding **claim(s) 10 and 22**, Bellomo discloses a system, wherein the selection of said last mentioned message is controlled, at least in part by information received from a message sender (column 4, lines 48-58).

Regarding **claim(s) 11, 23 and 31**, Bellomo discloses a system, wherein the selection of said last-mentioned message is controlled, at least in part, by local sensors (column 3, lines 55-65).

Regarding **claim(s) 12 and 30**, Bellomo discloses a system, wherein said sensors are selected from the list of thermometer, clock, GPS, calendar, physiological (column 3, lines 55-65).

Regarding **claim(s) 13 and 25**, Bellomo discloses a system, wherein a played one of said messages is played continuously for a period of time as controlled by information received with the message (column 3, lines 55-65).

Regarding **claim(s) 14 and 29**, Bellomo discloses a system, wherein said messages are received by a plurality of memories in a broadcast mode, said memories associated with different receiving users (column 4, lines 48-58).

Regarding **claim(s) 15 and 26**, Bellomo discloses a system, further comprising an override control for playing selected ones of said messages at a time established independent of said play time associated with said selected ones of said messages (column 3, lines 55-65).

Regarding **claim(s) 16 and 51**, Bellomo discloses a system, wherein said device, at a playtime, enables downloading of pre-identified messages stored at a location remote from said recipient location (column 3, lines 16-26).

Regarding **claim(s) 17 and 32**, Bellomo discloses a system, further comprising: means for converting any received message to a particular format, said particular format controlled by said recipient's system (column 3, lines 16-26).

Regarding **claim(s) 18, 27 and 36**, Bellomo discloses a system, wherein said controlled playtime is a message recipient specific time category, instead of a specific time (column 4, lines 48-58).

Regarding **claim(s) 19**, Bellomo discloses all the limitation of **claim(s) 19** as stated in **claim(s) 1**'s rejection above and furthermore Hogan discloses downloading to said memory device together with said message playing time an identification of a message to be played subsequently at said playing time (column 3, lines 55-65).

Regarding **claim(s) 28**, Bellomo discloses all the limitations of **claim(s) 28** as stated in **claim(s) 1**'s rejection above and furthermore Bellomo discloses a processor for controlling receipt of incoming messages to said recipient (column 3, lines 55-65).

Regarding **claim(s) 44**, Bellomo discloses all the limitations of **claim(s) 44** as stated in **claim(s) 1**'s rejection above and furthermore Hogan discloses playing each said stored message under control of said local device for said recipient at said time associated with said stored message without action taken by said recipient at the time each said message is played said playing occurring without a communication being established to said local device from a source external to said local device at said time each message is played (column 5, lines 53-65).

Response to Arguments

3. Applicant's arguments with respect to **claim(s) 1-36, 44 and 48-51** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GERALD GAUTHIER
PATENT EXAMINER

Gerald Gauthier
Examiner
Art Unit 2614

GG
June 19, 2006